UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/319/Add.3
29 April 1997

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic report of States parties due in 1997

Addendum

Tonga*

[27 March 1997]

I. GENERAL

1. The International Convention on the Elimination of All Forms of Racial Discrimination is recognized by the Government of the Kingdom of Tonga. However, the Convention has yet to be incorporated by the Legislative Assembly as part of the Laws of Tonga.

2. The Constitution of Tonga is the basis of the Government for the Kingdom, and appropriately it has been incorporated as law under the Act of Constitution of Tonga (Cap. 2). Part I deals with the Declaration of Rights and thus the Act expressly guarantees and protects fundamental human rights of the individual. In so doing, the Act thus establishes a legal framework which expressly discourages and prohibits any form of racial discrimination.

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* This document contains the eleventh, twelfth and thirteenth periodic reports, submitted in one document, due on 17 March 1993, 1995 and 1997, respectively. For the tenth periodic report of Tonga and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/209/Add.5 and CERD/C/SR.1006.

3. The political structure of Tonga is also provided for by the Constitution. The Government is divided into the three traditional organs of the Executive, the Legislative Assembly and the Judiciary.

4. The official figures on the demographic composition of the Kingdom are still based on the 1986 census which were presented in the ninth and tenth reports. There was a census in 1996; however, the official figures had not been released on the date of submission of this report. The table below contains the figures from the 1986 census:

Total	Kingdom of Tonga	Tongatapu	Vava'u	Ha'apai	'Eua	Niuas
	96 649	63 794	15 175	8 919	4 393	2 368
Tongan	90 364	60 745	14 346	8 665	4 297	2 311
Part Tongan	2 685	1 752	608	198	80	47
European	775	598	139	27	7	4
Indian	98	92	3	1	1	1
Other Pacific Islander	334	258	48	19	4	5
Asian	143	135	5	3	-	-
Other	50	49	1	-	-	-
Not stated	200	165	25	6	4	-

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

5. The Kingdom has no express policy on the elimination of racial discrimination, but as outlined above, the Constitution expressly prohibits the practice of racial discrimination. Therefore, the Kingdom recognizes the importance of the enjoyment and exercise, on an equal footing, of human rights and fundamental freedoms in all aspects of public life.

6. The ethnic characteristics of the country are homogeneous. Further, the Government possesses no information on ethnic differences.

7. The following are the provisions in the laws of Tonga referred to in this report:

Constitution of Tonga: (Cap. 3):

Clause 1:

Since it appears to be the will of God that man should be free as He has made all men of one blood therefore shall the people of Tonga and all who sojourn or may sojourn in this Kingdom be free for ever. And all

men may use their lives and persons and time to acquire and possess property and to dispose of their labour and the fruit of their hands and to use their own property as they will.

Clause 2:

No person shall serve another against his will except he be undergoing punishment by law and any slave who may escape from a foreign country to Tonga (unless he be escaping from justice being guilty of homicide or larceny or any great crime or involved in debt) shall be free from the moment he sets foot on Tongan soil for no person shall be in servitude under the protection of the flag of Tonga.

Clause 4:

There shall be but one law in Tonga for chiefs and commoners or non-Tongans and Tongans. No laws shall be enacted for one class and not for another class but the law shall be the same for all the people of this land.

Article 2

8. The following are the legislative, judicial, administrative and other measures which give effect to the provisions of article 2:

(a) The Act of the Constitution of Tonga as passed by the Legislative Assembly expressly prohibits the practice of racial discrimination;

(b) There is no specific legal provision which restricts the sponsorship of persons or organizations that are racially discriminatory because no such organizations exist in Tonga;

(c) The method of amending or nullifying legislation which is racially discriminatory can be made through the Legislative Assembly through the recommendation of the Executive branch. Since the last report there have been no such amendments relating to legislative provisions that are racially discriminatory;

(d) The measures available for the elimination of racial discrimination can be made through the Judiciary and local law enforcement;

(e) Measures taken to encourage integrationist multiracial organizations have been encouraged by allowing non-Tongans to participate in schools, business, religion and other aspects of public life.

9. All racial groups can participate with Tongans in normal everyday activities relating to education, business, religion, cultural activities and other activities in public life.

Article 3

10. Racial segregation and apartheid are expressly prohibited under the Constitution of Tonga as they are contrary to the provisions relating to liberty and freedom outlined above.

11. Diplomatic relations with South Africa have become more active, particularly since South Africa has gone through constitutional and political changes which resulted in the fall of the apartheid system in 1993 and the birth of a new democratic nation. As mentioned in the last report, the ties with South Africa will mainly be in the sporting field, particularly rugby union. Since the last report, this has in fact been the case. In July 1995 Tonga participated in the Third Rugby World Cup in South Africa. In June 1997 the Tongan National Rugby Team is scheduled to play an international test with the world champions, the South African Springboks, the first time ever for the two nations to play on the international scene. Even though the contact with South Africa will mainly be in the sports field, relations in other fields are envisaged.

Article 4

12. Tonga is racially and ethnically homogeneous and so racial discrimination seems to be non-existent. Thus, there are no specific measures which relate to the eradication of the incitement to or acts of racial discrimination, except for the provisions that are provided for by the Act of Constitution of Tonga mentioned above.

13. There have been no legislative, judicial or administrative measures taken in respect of article 4 (a) and (b) since the eighth report.

Article 5

14. The Act of Constitution of Tonga provides for the rights as outlined in paragraphs (a), (b) and (d)-(f), except paragraph (c) which relates to the right to participate in elections, a right which is reserved for Tongan nationals.

Article 6

15. An individual can bring a complaint that is racially oriented to the Judiciary where it can be competently dealt with. The Judiciary in the Kingdom is a three-tier adversarial system, composed of the Magistrates Court, the Supreme Court and the Court of Appeal. Appearance in such courts is open to all regardless of racial background.

16. Under the Act of Constitution of Tonga, section 4 provides that there shall be one law for all Tongans and non-Tongans. Thus, every individual may come before any of the courts that compose the Judiciary without any restrictions.

17. There have not been any court decisions on any cases relating to racial discrimination since the last report.

Article 7

Eduction and teaching

18. Although there are no specific measures that promote the teaching of racial discrimination in the schools, both government and non-government schools recognize and promote the importance of the protection of human rights and the condemnation of racial discrimination.

19. Schools in Tonga actively recognize and participate in International Human Rights Day and its activities such as essay competitions.

20. Thus, the education system as a whole recognizes the purposes and principles of the Charter of the United Nations and all the related United Nations international instruments that deal with human rights and the abolition of racial discrimination.

Culture

21. Tongan culture has a rich traditional Polynesian heritage, and Tongan people are always prepared to express and share their culture with non-Tongans. The Government has recognized the importance and influence that Tongan culture plays in everyday life in Tonga. This is the reason for the establishment of the Tonga National Center, which promotes and demonstrates Tongan culture to non-Tongan visitors and residents. Non-Tongans are also invited to partake in traditional dancing, food preparation and ceremonies. The Center also provides cultural groups which tour overseas countries to promote Tongan culture, and at the same time absorb foreign cultures. Overall, the Center's activities implement and encourage intranational relationships between countries, racial and ethnic groups. However, the sharing of culture is widespread throughout the Kingdom, and in all aspects of public life.

22. In Tonga there is no specific need for an ad hoc organization to be established to combat racism because racial discrimination, as asserted above, is practically non-existent. Moreover, the Government, as mentioned above, endorses International Human Rights Day and other campaigns relating to the elimination of racial discrimination.

Information

23. The government newspaper and radio services continually provide information on human rights issues and on current issues relating to racial discrimination. Thus, the Government, through this service, attempts to inculcate the purposes and principles of the United Nations instruments mentioned above.

24. The mass media, including private television stations, newspapers and radio, also participate in the publication and dissemination of information relating to world affairs and the United Nations, thus covering information on the principles and purposes of the United Nations instruments mentioned above.

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Distr.
GENERAL

CERD/C/319/Add.4
7 October 1997

ENGLISH
Original: SPANISH

COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic report of States parties due in 1997

Addendum

CUBA*

[20 June 1997]

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* This document includes the (consolidated) tenth, eleventh and twelfth reports, due on 16 March 1991, 1993 and 1995 respectively.

The information submitted by Cuba under the consolidated guidelines for the initial parts of reports by States parties appears in document HRI/CORE/1/Add.84. For the ninth report of Cuba and the summary records of meetings of the Committee at which it was considered, see documents CERD/C/184/Add.3 and CERD/C/SR.894-895.

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INFORMATION CONCERNING ARTICLES 2 TO 7

Introduction

1. In colonial times, racism was the ideology that sustained and justified slavery. After the abolition of slavery and, later, in the neo-colonial Republic, it manifested itself in a complex system of ideas and discriminatory practices which ensured that the most coloured sectors of the population were exploited and segregated. Over the last 30 years Cuban society had undergone far-reaching socio-economic changes. One of the basic objectives of the successful 1959 revolution was the eradication of racial discrimination.

2. The Cuban Revolution has deep anti-racist roots, showing its ideology to be a continuation of the separatist ideas and struggles that began with the first war of independence, the Ten Years War of 1868-1878. The first action of Carlos Manuel de Céspedes, a rich sugar grower who is regarded as the father of the nation, when he started the independence movement on 10 October 1868, was to free his black slaves and tell them to join the anti-colonial, abolitionist war that was just beginning.

3. The principle of equality began to take concrete form in all spheres of life as of 1 January 1959, being reflected in both the laws and the practical policies adopted by the Cuban State, whose basic motto was that laws were not enough: abstract concepts had to be turned into concrete rights. That they have been is thanks to far-reaching political, economic, social and cultural changes, begun long since but continuing today despite economic difficulties and adverse external influences in recent years.

4. Cuba's opposition to any kind of discrimination and support of equality derives from the Constitution and stems from chapter 1, "Political, social and economic foundations of the State", chapter 6, "Equality", and chapter 7, "Basic rights, duties and guarantees" of the Magna Carta adopted by reference in 1976 and amended by the Constitutional Reform Act passed by the National Assembly in July 1992.

5. The Constitutional Reform added a new chapter, chapter III, on aliens, which states in article 34 that aliens resident in Cuba are assimilated to Cubans in matters such as the protection of their persons and property, the enjoyment of the rights and performance of the duties laid down in the Constitution, subject to conditions and limits laid down by law, and the obligation to abide by the Constitution and law.

6. Other articles in various chapters of the Constitution set forth guarantees, rights and freedoms such as those of personal property, inheritance, the right to seek and obtain appropriate reparations or compensation, not to be deprived of one's citizenship, equal rights and equal duties for spouses, equal rights for children born in or out of wedlock, freedom of artistic creation and the right to vote.

7. Constitutional rights, and the machinery and means of asserting them and punishing violations, are also safeguarded by copious supplementary

legislation, including the Penal Code (Act No. 62 of 1987), the Associations Act (Act No. 54 of 1985), the Criminal Procedure Act, the Electoral Act (Act No. 72 of 1992), the Family Code (Act No. 1289 of 1975) and the Labour Code.

8. The Cuban Constitution and law call for the exercise of civil and political as well as economic, social and cultural rights, in conformity with the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

9. An abiding principle of the State's social development policy from 1959 to the present has been preferential treatment for the social groups neediest and most marginalized during the pre-revolutionary period: children, women, the elderly, rural dwellers, young people and the disabled, without distinction.

10. The general and specific policies followed have fostered the integration of Cuban society. Among other decisive factors, this has been thanks to their democratic nature, based on real public access and involvement in their formulation and application; their focus on people as the means and end of development; by equal opportunities and access to work, income and basic services, and by the generous resources earmarked for their implementation.

11. The nationalization of the health and education systems, making them free and available to all, particularly benefited groups that had been discriminated against for centuries, such as Blacks and mulattos who had previously had limited access to such services. Changes in forms of ownership, with State ownership prevailing, made access to work easier and facilitated the application of a policy of uniform wages in each occupational category, and an end to discrimination in access to housing, cultural, sporting and leisure facilities.

12. A general policy of redistributing incomes, distributing the basic basket of commodities fairly, and extending and improving the social services mentioned above and others such as drinking water supply and sewerage to all corners of the country, has helped the transition from a society of many levels and structures to a more homogeneous one.

13. There has been a policy of promoting Blacks, women and young people in particular to managerial positions at all levels within the country.

14. A draft to be taken up at the Fifth Congress of the governing Communist Party, currently under discussion by the workers, women, peasants, students and the general public so that they can contribute their opinions, suggestions and proposals, states that "in the present we must continue to consolidate the fair policy of affording special, but not automatic, promotion into managerial positions of Blacks and women, as has already been done for young people ...".

15. The Constitution, laws and equal-opportunity policies adopted since 1959 have done away with the institutionalized racism and legal mechanisms that used to hamper the exercise of equal rights irrespective of skin colour, and have reduced racial prejudice and lessened the possibility of prejudice turning into discriminatory social conduct.

16. Racial prejudice in contemporary Cuban society is practically insignificant and appears in the most private areas of life, generally in engagements and marriage ties, not in social relations. A sign of how limited racial prejudice is, is the conspicuous number of racially mixed families.

17. The survival of some personal prejudice derives from historical and socio-cultural factors, because 37 years of anti-discriminatory policies cannot totally eradicate the stereotypes of a society that had been racist for more than 500 years: the ways families are structured and operate do not change as quickly as laws or State policies.

18. Partial findings from scientific research on this subject show that some people's images of racial groups other than their own stem not from the suppositions typical of racism as an ideology in other contexts, i.e. the existence of congenital or innate biological distinctions, but from judgements on certain features of lifestyle, social behaviour etc., which can be ascribed to historical and cultural causes.

19. There proves to be a widespread feeling among the general public that racial prejudice is undesirable and unacceptable; people realize that historical and sociocultural conditions have put some groups at a disadvantage compared with others; they recognize that biological and cultural interbreeding is intrinsic to the Cuban people, and interracial relations are steadily increasing in every walk of life.

20. In society generally there is an increasing degree of interaction, with some strikingly intense cases, in neighbourhood working and educational relations, and in participation in cultural, leisure and sporting activities.

21. The main features of the Cuban cultural identity are clearly defined. The Cuban ethnos represents over 98 per cent of the resident population. Cuba has no ethnic minorities but representatives of other ethnic groups in the form of small communities or families, none of them separately amounting to even 1 per cent of the total population. They include people of the Canary Islands, Catalans, Spaniards, Galicians, Basques, Chinese, Haitians, Jamaicans, Japanese and a great many others, all with similar rights to those of the main ethnic group - Cubans.

22. The ethnically homogeneous nature of the Cuban population does not prevent multiraciality from being one of its distinctive traits. The confluence and interaction of a variety of ethnic conglomerates, each with distinctive racial ties, has given rise from the outset to a particular ethno-racial physiognomy.

23. In Cuba's case, intense biological and cultural interaction early created a mixed-race stratum, the fruit of a huge variety of ethno-racial combinations, so that account has to be taken of Whites, Blacks and mixed-race people, the latter being known as mulattos.

24. It is difficult, given the intense interbreeding and an extensive international literature on racial classification procedures which posits a number of races ranging from three up to four hundred, based not only on customary morphological indicators such as skin colour but also on

biochemical, immunological, physiological and genetic characteristics, all becoming more varied in the human race by the day, to identify individuals clearly in racial terms for the purposes of quantitative indices.

25. Besides, indicators of ethnic group and race by sex can be obtained only when population censuses are carried out, and the last one took place in Cuba in 1981. This is why there are so few up-to-date statistics on the subject, and why those that do exist are somewhat approximate.

26. Besides, there has been a steady increase in interracial marriages, particularly in recent decades, adding to the process of interbreeding and leading many experts and scholars to claim that over 70 per cent of the Cuban population is interbred to some degree.

27. According to the 1981 census data, the racial composition of Cuban society is: Whites 66 per cent; Blacks 12 per cent; mixed-race 21.9 per cent; Asians 0.1 per cent. These proportions are relative and give only a very general picture, for the survey-takers had no training in physical anthropology; hence interviewees' self-images and the status and experience of the interviewer, affected by a great many different factors, substantially influenced the classification. Furthermore, this racial classification was based above all on skin colour, which is only one of the parameters for such an exercise.

28. In 1981, of those in the population aged 11 and above who held any kind of educational qualification, 67 per cent were white, 20.8 per cent mixed-race and 12.1 per cent black, i.e. proportions almost identical to those for the various colours of skin in the population, indicating the real progress made in educational levels in barely two decades.

29. According to the 1995 National Internal Migration Survey, the breakdown of the population by skin colour is 66.7 per cent white, 20.1 per cent mixed-race and 13.2 per cent black.

30. The main reason for the ethno-racial characteristics of the Cuban population can be found in the fact that the original communities inhabiting the island in the early sixteenth century were almost wiped out in colonial times through the encomienda system, forced labour, suicides and physical maltreatment, leaving it to outside ethnic groups, principally Hispanic and African from different parts of Spain, Western and even South-East Africa, with a great deal of cultural variety, to play the leading role in the creation of the Cuban people and its culture.

31. The colonialists had a policy of depriving slaves and free-men brought over from Africa of their entire cultural heritage and foisting institutions, customs, religion and a language on them; they were unable, though, to prevent elements of African culture from being brought into the dominant, originally Spanish, culture in the process of transcultural exchange, fusing with it and gradually giving rise to a new phenomenon that would later assert itself as Cuban-ness.

32. Race and racial prejudice remain a constant concern of the Cuban State, insignificant though they may be, and many researchers at academic institutions and State-employed scientists are at work on aspects of the racial question.

33. Mention may here be made of the Ministry of Science, Technology and the Environment's Anthropology Centre, where a multidisciplinary research team has recently been conducting a study entitled "Race relations and ethnicity in Cuba", some of whose preliminary findings are given in this report and have been published in the specialist and popular press.

34. The race question has been discussed publicly by Cuban experts and researchers at events in and outside the country.

35. The Anthropology Centre has held three international workshops, in 1992, 1994 and 1996 respectively, and has scheduled a fourth for April 1998 These provide a forum for learned papers, discussions, lectures and courses on such topics as Hispanic, African and European presences among the peoples of America; the economic, social and cultural impact of the slave trade in America; and race, class and gender from an anthropological and sociocultural perspective.

36. As part of the Cuba-United States philosophy encounters organized in recent years by the University of Havana and the Institute of Philosophy, round tables have been held on the topic of race, which has also been discussed at the social sciences workshop held at the Ministry of Science, Technology and the Environment and at two meetings of Cuban and United States academics on theoretical concepts of human rights, one held in Havana in March 1995, the other in Washington in February 1996.

37. Cuban researchers have also presented papers on the subject at congresses of the Latin American Studies Association held in Washington in 1995 and in Guadalajara, Mexico in 1997.

Article 2

38. One of the grandest accomplishments of the Cuban revolution has been to apply and respect human rights. This springs from the very essence of the revolutionary struggle against injustice, inequality, the exploitation of man by man, discrimination, and the denial of the rights of the working people.

39. Accordingly, the Cuban State maintains an attitude of consistent condemnation of any form of discrimination, as is clear from national law and from the country's plans and international undertakings. This has been detailed in every report submitted since 1974.

40. Current Cuban legislation condemns and punishes any act of racial discrimination against individuals, groups or institutions.

41. The Constitution proclaimed on 24 February 1976, as amended by the National Assembly on 12 July 1992, states in its first article that "Cuba is a socialist workers' State, independent and sovereign, organized with and for

the benefit of all as a unitary and democratic republic, for the enjoyment of political freedom, social justice, individual and collective welfare and human solidarity."

42. The Constitution also lays down, in article 41, the principle that all citizens are equal in the enjoyment of equal rights and the fulfilment of equal duties.

43. The Cuban Penal Code (Act No. 62 of 29 December 1978) states in its preliminary provisions, article 1.1, that its objectives include "protecting society, individuals, the social, economic and political order and the rule of the State ... and promoting full observance of the rights and duties of citizens ...".

44. Discrimination on grounds of race, skin colour, sex, national origin, religious belief or on any other grounds injurious to human dignity is prohibited and punishable by the law, as stated in article 42 of the Constitution.

45. As previously mentioned, article 295 of the Penal Code includes provision for an offence against the right to equality, punishable by between six months' and two years' imprisonment or a fine of between 200 and 500 cuotas (accounting units) or both for anyone who discriminates or promotes or incites discrimination against another either through indications and attitudes offensive to his or her sex, race, colour or national origin or through moves to obstruct or frustrate the individual concerned, on those grounds, in the exercise or enjoyment of the equal rights laid down in the Constitution. Similar punishment applies to anyone who disseminates ideas based on racial superiority or hatred, or commits acts of violence or incites violence against any race or group of persons of a different colour or ethnic origin.

46. Article 12 (b) of the Constitution states that the Republic of Cuba shall "base its international relations on the principles of equality and independence of States, international cooperation to fair mutual advantage and interest, the peaceful settlement of disputes on an equal footing, and respect for the other principles set forth in the Charter of the United Nations and other international treaties to which Cuba is a party".

47. Cuban legislation extends protection against any form of discrimination to foreigners resident in the country. Article 34 of the Constitution states that foreigners resident within the Republic are treated identically to Cubans as regards protection of themselves and their property and the enjoyment of rights and fulfilment of duties laid down in the Constitution, subject to the conditions and limits established by law.

48. Likewise, article 13 of the Constitution allows the possibility of "granting asylum to those persecuted for their ideals or struggles for democratic rights against discrimination and racism, for national liberation, for workers', peasants' and students' rights and claims, for progressive political, scientific or literary activities, for socialism or peace", thus showing Cuba's opposition to discrimination in any part of the world.

49. Consistent with the rights, duties and guarantees laid down in the Constitution, the Civil Code (Act No. 59 of 16 July 1987) states, in article 38 on the inherent rights of the individual, that a violation of those rights affecting the victim's property or honour entitles him to demand immediate cessation of the violation or, where possible, elimination of its effects, a retraction from the offender and reparation for any damage or injury caused.

50. It must also be pointed out that the basis for the rules and regulations in major pieces of social legislation such as the Family Code and the Children and Youth Code is equality, a feature found throughout the body of national legal standards. Hence public authorities and institutions operate in accordance with the legislation, and any violation is punishable by law.

Article 3

51. The Cuban State condemns and prohibits racial segregation and apartheid and its domestic policy and international activities are consistent with that principle.

52. The Penal Code, in article 120, punishes the crime of apartheid, laying down in subparagraph 1 a penalty of 10 to 20 years' imprisonment or death for anyone "who, with a view to instituting or maintaining the dominance of one racial group over another, and in keeping with policies of racial extermination, segregation or discrimination:

> "(a) Denies members of that group the right to life and liberty by means of killing; serious encroachments upon their physical or mental integrity, freedom or dignity; torture or cruel, inhuman or degrading treatment or punishment; arbitrary detention or illegal imprisonment;
>
> "(b) Imposes on the group legislative or other measures intended to hamper their participation in the political, social, economic or cultural life of the country or deliberately to create conditions obstructing their full development by denying them basic rights and freedoms;
>
> "(c) Divides the population according to racial criteria, setting up reservations and ghettos, prohibiting marriage between members of different racial groups, or expropriating their property;
>
> "(d) Exploits the members of the group, particularly by subjecting them to forced labour."

53. Subparagraph 2 of the same article lays down a penalty of between 10 and 20 years' imprisonment for the offence of persecuting or in any way attacking organizations and individuals that oppose or resist apartheid.

54. Subparagraph 3 establishes that the offences covered by subparagraphs 1 and 2 are culpable irrespective of the country where the guilty parties operate or reside, and whether they are committed by individuals, members of organizations and institutions or representatives of the State, irrespective of motive.

55. Cuba is a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which it acceded to on 13 February 1977, and the Convention on the Elimination of All Forms of Discrimination against Women, which it ratified on 17 July 1980. Since the ninth report it has ratified the International Convention against Apartheid in Sports, on 11 December 1990, and the Convention on the Rights of the Child, on 21 August 1991. Among the provisions of the latter is that the rights of the child are to be respected independent of race, colour or ethnic origin.

56. Between the ninth report, submitted to the Committee in 1989, and the present one, Cuba has continued to take an active part in international gatherings such as the Human Rights Committee, the Economic and Social Council and the United Nations General Assembly, condemning racism, xenophobia, racial discrimination, and new forms of racial discrimination such as intolerance of immigrants in various countries; it has criticized the use of communications and information media for racist propaganda purposes, and the poor implementation rate on the Programme of Action for the Third Decade of Action to Combat Racism and Racial Discrimination.

57. In 1993, Cuba supported the adoption of the General Assembly's resolution on the Third Decade and was active, during the fifty-third session of the Commission on Human Rights, in calling for a world conference on the subject, to be held no later than the year 2001. It was a co-sponsor of the omnibus resolution which, besides proposing the world conference, supported the activities of the Special Rapporteur on contemporary forms of racism and racial discrimination.

58. Hundreds of thousands of Cubans joined in providing solidarity and internationalist support for the Republic of Angola as it upheld its territorial integrity in the face of the then racist, apartheid South Africa's policy of expansionism between 1975 and 1991; this helped to consolidate the Cuban population's anti-racist feelings still further.

59. Governments, peoples and organizations in various African countries have acknowledged that the Cuban-Angolan victory made a decisive contribution to the independence of Namibia and the disappearance of the apartheid regime in South Africa.

Article 4

60. All propaganda and organizations inspired by ideas or theories based on the superiority of one race or group of people of a particular colour or ethnic origin, or seeking to justify or promote racial hatred or discrimination in any form, are condemned and punished by Cuban legislation.

61. Article 295 of the Penal Code, cited above, reads: "Discrimination, or the promotion of or incitement to discrimination against another person, either through indications and attitudes offensive to his or her sex, race, colour or national origin, or through moves to obstruct or frustrate him or her on grounds of sex, race, colour or national origin, in the exercise of enjoyment of the equal rights laid down in the Constitution shall be punishable by between six months' and two years' imprisonment or a fine of between 200 and 500 cuotas, or both."

62. Subparagraph 2 of the article states that "the same punishment shall be applicable to persons disseminating ideas based on racial superiority or hatred or engaging in or inciting acts of violence against any race or group of persons of another colour or ethnic origin".

63. Act No. 54 of 27 December 1985 (the Associations Act), governing the exercise of the right to association - enjoyed by all citizens under the Constitution - closed off the possibility of establishing racist or segregationist associations. It allows associations that help to foster the study, dissemination and preservation of different nationalities' history, culture and art, and promote friendship, solidarity and equality among human beings, to flourish. The creation of various such associations, to which nationals of other States and their descendants belong, typifies Cuba's practice of opposing all kinds of discrimination and encouraging equality.

64. Promoting or inciting racial discrimination is prohibited under Cuban legislation. This includes national public institutions. Violations are punishable, as indicated above, under article 295 of the Penal Code.

Article 5

65. Cuba prohibits racial discrimination in all its forms, as called for in article 2 of the Convention, and guarantees the right of everyone to equality before the law and equal enjoyment of their rights.

66. Cuba complies with article 5 of the Convention. Among the principles underlying the country's institutional development and the overall development of its population in the construction of a socialist society is condemnation of racism of all kinds and the fostering of equality in the various aspects of socio-political and economic life. This includes improving the general public's knowledge of the law and encouraging active participation in the various legislative bodies.

67. All State bodies, their leaders, officials and employees, act within the bounds of their various terms of reference; they are required to abide strictly by socialist legality and ensure that it is respected throughout society. The Office of the Attorney-General of the Republic, as an organizational unit subordinate only to the National Assembly and the Council of State, exists to monitor and uphold legality by closely monitoring respect for the Constitution, the law and other legislation on the part of State bodies, economic and social entities and citizens, and to institute and carry out public penal proceedings on behalf of the State, in accordance with article 127 of the Constitution.

68. Through its activities, the Office seeks to uphold the rule of law and thereby defend the legal order and citizens' rights and freedoms.

69. Article 109 of the Criminal Procedure Act states that the Attorney-General, being responsible for socialist legality, shall guarantee respect for the dignity of the citizen, and shall in no circumstances be subject to illegal restrictions on his rights. Under article 127 of the Constitution, the Attorney-General, on learning of a violation of civic rights

through a citizen's report or complaint, or during the pre-trial investigation of a case, or through the inquiries he may by law conduct, must take action to reinstate the breached rights and bring those responsible to book.

70. The Office includes a civic rights department which handles and responds to complaints and claims of alleged breaches of the law.

71. Under articles 58 and 59 of the Constitution, the personal freedom and inviolability of all who live in the Republic of Cuba is guaranteed, and no one can be put on trial or sentenced except by a competent court under laws adopted before commission of the crime, and subject to the requirements and safeguards established by law. Constitutionally, all accused persons have a right to defence and the use of any form of violence or force to extract a confession is prohibited; any information so obtained is null and void, and those responsible face punishment under the law.

72. The general provisions of the Criminal Procedure Act state that penal justice is administered on behalf of the people and that no punishment may be imposed except in accordance with the legislation in force and pursuant to rulings by competent courts. The Act goes on to say that officials involved in penal proceedings are required, within their respective terms of reference, to take note of the accused's actions, to make allowance in their decisions for circumstances adverse or favourable to the accused, and to inform the accused of his rights. All accused persons are considered innocent until pronounced guilty. All crimes must be proved to have occurred independent of any testimony by the accused, his or her spouse and family members.

73. Article 133 of the Penal Code punishes abuse of authority by any public official who, seeking to compromise an individual or secure illicit gain, performs his functions in a manner manifestly contrary to the law or arbitrarily exceeds the limits of his authority.

74. Judicial or administrative officers who do not act on a decision or order duly handed down by a competent court or authority are subject to punishment (the crime of disobedience); any official who deliberately hands down a decision contrary to the law in any matter coming to his attention through his official position, who maliciously delays the handling or solution of a case or unjustifiably fails or refuses to perform a duty or act inherent in his functions or who, in the performance of his duties, wilfully omits to seek the prosecution or punishment of a law-breaker or encourages the prosecution of a person whom he knows to be innocent, likewise faces a punishment. Punishment also awaits any judge who deliberately votes for a sentence or settlement contrary to the law (crime of prevarication).

75. The Constitution, in chapter XIV (The Electoral System), upholds the right of all legally competent citizens to take part in the running of the State, either directly or through their representatives elected to the organs of People's Power, and to take part in periodic elections and referendums conducted by free, equal and secret ballot (article 131).

76. It also states that all Cubans, male and female, aged over 16 years except for those with mental disabilities (attested by a prior legal declaration) or legally disqualified on account of a crime, are entitled to

vote. They are also entitled to be elected, provided that they are in full enjoyment of their political rights (articles 132 and 133). These provisions are duly regulated by Act No. 72 (the Electoral Act) of 29 October 1992, in Title I, "Right to suffrage".

77. Article 32 of the Constitution establishes that Cubans cannot be deprived of their citizenship except on legally established grounds, and allows Cubans to change their citizenship. Since double citizenship is not permitted, Cuban citizenship is lost when a foreign one is taken. Under article 33, Cuban citizenship can be withdrawn in the circumstances and manner prescribed by law.

78. Chapter IV of the Constitution stipulates that the State shall protect the family, motherhood and marriage. It acknowledges the family as the fundamental unit of society, ascribing to it essential tasks and responsibilities in the upbringing and education of the younger generation. Article 36 describes marriage as "the voluntarily contracted union of a man and a woman legally capable of doing so for the purpose of creating a life together"; this implies absolute equality of rights and duties for the spouses, who must both see to the upkeep of the home and general upbringing of the children in a shared effort consistent with the part played by each in society.

79. These points are duly covered in the Family Code (Act No. 1289 of 14 February 1975), chiefly in articles 1, 2 and 24 to 28. Article 44 of the Constitution states that "women and men enjoy equal rights in economic, political, cultural, social and family matters".

80. Article 37 of the Constitution establishes that all children are equal whether born in or out of wedlock, and article 38 deals with parents' duty to feed their children and help them to assert their rightful interests and realize their just aspirations. Parents are also called upon to contribute actively to their children's overall upbringing as valuable citizens prepared to play an appropriate part in socialist society.

81. Chapter VI, "Equality", of the Constitution states that all citizens enjoy equal rights and are subject to equal duties, and that discrimination on grounds of race, skin colour, sex, national origin, religious beliefs or any other grounds offensive to human dignity is prohibited and punishable by law; also that State institutions must inculcate in all, from the earliest age, the principle that all human beings are equal.

82. The Constitution states in article 43 that "the State shall uphold the right, secured in the Revolution, of all citizens, without distinction on grounds of race, skin colour, sex, religious beliefs, national origin or any other grounds injurious to human dignity, to:

- have access consistent with their merits and abilities to all positions and jobs within the State, the public administration and the production and delivery of services; [...]

- be educated at any teaching institution in the country, from primary school up to university, those institutions being the same for all;

- receive care at all health institutions;

- live in any city sector, zone or district and stay at any hotel;

- be served at all restaurants and other public-service establishments;

- use ocean, rail, air and road transport without redress;

- make use of the same health resorts, beaches, parks, clubs and other culture, sport, recreation and leisure centres".

83. Chapter VII of the Constitution enshrines citizens' basic rights, duties and safeguards, covering the right to work, which is both a duty and a source of pride for each citizen; workers' right to paid leisure and an eight-hour working day; appropriate protection for all workers in the event of death; social welfare protection for the elderly lacking resources or support, and for anyone incapable of work who has no relatives able to assist them; guarantees the right to occupational safety and health; the right to health care and protection; the right to physical education, sport and recreation; and freedom of speech and the press consistent with the objectives of a socialist society. In keeping with these principles, the Penal Code covers offences against workers' rights (Title X).

84. Article 24 of the Constitution says that the State recognizes the right to inherit privately owned housing and other items of personal property. The Penal Code punishes crimes against property rights (article 293).

85. The Cuban State recognizes, respects and guarantees freedom of conscience and religion and the freedom of every citizen to change religious belief or to hold none, and to engage, subject to respect for the law, in the religious worship of his preference, as indicated in article 55 of the Constitution. The Penal Code punishes crimes against the free expression of thought (article 291) and freedom of worship (article 294).

86. The rights to meet, demonstrate and associate exercised by manual and white-collar workers, peasants, women, students and other sectors of the working population without distinction or discrimination are also constitutionally enshrined, in articles 54 and 55, and the means to enforce those rights exist: there are penal clauses covering crimes against the rights to meet, demonstrate and associate, lodge complaints and present petitions (article 292 of the Penal Code).

87. The Constitution recognizes, in article 7, the legality of the Cuban Workers' Centre and of trade unions, since the State recognizes and encourages the mass and public organizations that arose during the people's historic series of struggles, bringing together different sectors of the population,

representing their specific interests and involving them in the tasks of constructing, consolidating and defending socialist society. No distinction as to race, colour or sex is made in the process of trade union enrolment.

88. As has been shown, Cuban legislation, which is constantly being refined with public participation, guarantees and protects all the rights covered by article 5 of the Convention and rules out or prohibits discrimination of any type.

Article 6

89. Everyone under the jurisdiction and protection of the Cuban State has access to effective protection and remedies that can be put at the disposal of the competent courts and other State institutions to combat discrimination and violations of human rights and fundamental freedoms; everyone is also entitled, as called for in article 6 of the Convention, to seek satisfaction or just and adequate reparation for any damage they may have suffered as a result of such discrimination.

90. As stated above, the Office of the Attorney-General is responsible for compliance with the law and civil rights, and for bringing to light any breach of the law.

91. Under article 106.3, subparagraph (c), of Act No. 4 of 1977, the Judicial System Organization Act, the Office of the Attorney-General is required to act in accordance with established legal procedures in order to restore the rule of law, without prejudice to any action by the individual concerned to seek real and effective recognition of the infringed right in the manner and form laid down by law.

92. At the administrative level, the Council of State has passed Decree-law No. 67 in which, among other organizational principles and provisions governing the public administration, it has given all bodies the duty, function and authority to take up and, within a 60-day time-limit, give appropriate responses to citizens' complaints and petitions, striving to deal properly with the matters raised and take steps to make good any deficiencies.

93. Although discrimination does not occur in Cuba, current legislation continues to condemn and penalize it.

Article 7

94. Activities in the spheres of teaching, education, culture and information are governed by constitutional principles and provisions condemning all forms of discrimination; these have been a pillar of the State since the triumph of the Cuban Revolution in 1959, and one of the premises on which Cuban society has been constructed.

95. Fostering ties of solidarity and friendship and exchanges of all kinds with different States, based on respect for sovereignty, territorial integrity and national self-determination, is a characteristic practice of the Cuban State in its struggle against discrimination of all kinds.

A. Teaching and education

96. Article 42 of chapter VI, "Equality", of the Constitution states that State institutions shall inculcate in all, from the earliest age, the principle that all human beings are equal.

97. Article 43 says that the State shall uphold the right, secured in the Revolution, of all citizens, without distinction on grounds of race, skin colour, sex, religious belief, national origin or any other grounds injurious to human dignity, to be educated at any teaching institution in the country, from primary school up to university, those institutions being the same for all.

98. Men and women enjoy equal rights in economic, political, cultural, social and family matters, in accordance with article 44, which also stipulates that the State shall guarantee that women are offered the same opportunities and possibilities as men, with a view to securing their full participation in the development of the country.

99. Article 81 of chapter VII, "Basic Rights, Duties and Guarantees", says that everyone has the right to education, that right being guaranteed by an extensive and free system of schools, semi-boarding schools, boarding schools and scholarships of all kinds and at all levels, and by the free provision of school supplies. Grown men and women have the same entitlement under the same conditions.

100. There is, in addition, extensive supplementary legislation on these principles, including the Child and Youth Code and the Family Code.

101. The Cuban education system, which attains standards of performance comparable to those in developed countries, is organized nation-wide into various subsystems organically interlinked at all levels and types of education, offering continuity of education right up to university level for all citizens without distinction; this applies both to normal daytime classes and to evening and night courses or weekend courses for adults (workers, peasants and housewives) and open university courses, to obtain a general education (primary, general middle, basic secondary and pre-university) or technical and vocational training (skilled workers and middle-grade technicians) and university-level education.

102. A system of scholarships is available from primary up to university-level education. Some 291,400 students in various subsystems benefited in 1996, receiving free lodging, food and clothing besides education. There is also a semi-boarding service which in 1996 offered double-shift schooling with a modestly priced lunch to 523,200 students.

103. There is even a special educational subsystem to meet the schooling and labour education needs of children, teenagers and young people with physical, mental or behavioural difficulties. It caters for the mentally backward, deaf, hard of hearing, blind, visually impaired, and people suffering from language or behavioural difficulties or who are behind in their intellectual development.

104. The educational facilities offered to workers, male and female, without distinction on grounds of age, race, etc., enabled them to attain an average of nine grades of education during the 1980s.

105. An indication of the non-discriminatory nature of education in Cuba is that 99.7 per cent of the children aged between 6 and 11, and 92.3 per cent of those aged between 12 and 14 were enrolled in school in the academic year 1995-1996; these are the ages that correspond to basic education, which consists of nine grades, in Cuba.

106. Any educational system necessarily entails ethical instruction. Teaching of any nature in Cuba, from pre-school training to higher education, is slanted towards the most exalted human values, including equality and friendship.

107. Another function of the educational system in Cuba is to provide training in and for democracy. This comes from teachers, students and parents through attendance at school boards, parents' meetings and the conferences of student and trade union organizations, where participants can discuss matters directly with the head of State, ministers and other governmental leaders and criticize what they please. Hence school provides not only a theoretical but also a practical, and profoundly relevant, training in the exercise of civil rights and the assumption of civic responsibilities.

108. Civic education was reintroduced as a subject in academic year 1988/89 with new content based on actual circumstances, how citizens view them and how they interpret them. Civic education covers human-rights-related topics, starting with pupils' own experience and actions, the family as a social institution and the Cuban nation, together with Cuban patriotism and internationalism.

109. The nature of human rights, and the democratic spirit of the 30 articles comprising the Universal Declaration adopted by the United Nations in 1948, are covered in class. Through debates and lectures, teachers explain and provide examples of how society can enable every one of its members to meet not only his material needs but also his cultural and spiritual ones. Real situations to do with the observance of human rights in different countries are also discussed.

110. As part of the reform of the educational system launched in 1989, additional weight has been given to Cuban history in primary and secondary education, and as part of this pupils are taught about their roots, the process of ethno-racial interaction which led to the creation of the modern Cuban people and nation, and the cultural, political and historical contributions of the various groups it sprang from.

111. Out-of-school education in the form of recreational, sporting, cultural and patriotic activities, which are a regular feature of school and out-of-hours activities, supplement and reinforce the schools' teaching efforts, encouraging participation, collectivism and respect for other cultures and peoples.

112. Another feature of Cuban education has been the provision of scholarships to thousands of children and young people from some 35 Asian, African and Latin American countries. The peak, in the late 1980s, was reached with approximately 25,000 students, who shared their Cuban colleagues' dormitories, lecture halls and extra-curricular activities, enabling them to learn about each other's cultures, histories and customs.

113. The educational system has been a faithful transmitter and jealous watchdog over the laws and principles of the Cuban State, guarding against any sign of racial discrimination, raising and preparing generations of young people, male and female, for life in a just, caring society which promotes the collective interest and advantage without discrimination.

B. Culture

114. One specific basic policy in the cultural sector has been to give due weight to national, Latin American and world culture. From the outset of the process of change, in 1959, efforts have been made to revise the values attached to the various elements of national culture, emphasizing those that had traditionally been brushed aside or discriminated against. In this sense, State cultural policy has fostered and encouraged the publication and launched research into the contribution of the Black population to Cuban culture, and given birth to artistic groups such as the National Folklore Ensemble, dedicated to putting on displays of the Cuban nation's cultural roots.

115. One of the publishing houses in the national network devotes itself to publishing Cuban authors and has set up literary and artistic competitions to make the work of Cuban writers better known.

116. The output and consumption of cultural products has been democratized with the creation of universal opportunities for access to education in general, and with public State institutions which make it easy to apply a policy of charging affordable prices for cultural goods and performances and to create and expand such cultural facilities as libraries, theatres, cinemas, galleries, professional theatre groups and dance troupes; it also helps to develop supporters' movements, and to offer access to specialized and aesthetic education as a part of the regular education system.

117. Museums, of which Cuba has 222 ranging down to the municipal level, display in their halls the contributions of the various ethnic and racial components of the country to the life of the nation down to the district level, their contribution to Cuban nationhood, and their struggles to win the country genuine independence.

118. The Cuban Friendship Institute (ICAP) exists to promote friendship with all the world's peoples; among other activities it organizes visits by Cuban intellectuals and artists to other countries to display Cuban art and cultural traditions, and visits to Cuba by groups from countries or regions interested in getting to know about and share the economic, social and cultural life of the Cuban people.

119. There are also a number of friendship associations with various countries which arrange exchanges of delegations, cultural and sporting

activities, conferences, exhibitions and so forth to commemorate such important events as national holidays, the anniversaries of the establishment of relations with countries, Africa days and so forth.

120. A new foundation has recently been set up bearing the name of Fernando Ortíz, a key figure in Cuban anthropology, ethnology and sociological research and a devoted researcher into the Cuban people's African roots besides being the author of books such as "El Engaño de las Razas" ("The Race Sham") which seeks to demonstrate the fallacy of categorizing people by race. The purposes of the foundation include disseminating and perpetuating Ortíz's work and ideas on Cuban origins and national identity - ideas characterized by their anti-racist sentiments - and to promote research into these subjects.

121. There is a Martí study centre dedicated to the study of the life and intellectual works of the national hero José Martí, and in May 1977 a Martí Programme Office was established under the Council of State to promote Martí's intellectual and moral legacy with its characteristic commitment to anti-slavery and strict equality between races. Santiago de Cuba has a Caribbean House to foster cultural relations with the Caribbean peoples.

122. As part of the process of reconstruction and conservation of the historic district of Habana Vieja, which UNESCO has recognized as a World Cultural Heritage site, institutions established include an Africa House and an Arab House with exhibition spaces dedicated to displays of the culture, artifacts and customs of those regions. These encourage awareness of our ancestors and of the people who currently inhabit these regions, and promote friendship with those peoples. Work began in late May on the restoration of the building which will house the Asia House.

123. The most recent example of activities to promote tolerance and friendship among nations and racial and ethnic groups is the national programme to mark the one hundred and fiftieth anniversary of the arrival of the first Chinese in Cuba, with a stream of activities between 27 Ma[illegible] and 3 June sponsored, among others, by the Chinatown Promoter Group, the Chiung Wah Casino and the Cuba-China Friendship Association. The objective of the activities was to revive and enrich traditions that cast light on what the Chinese have contributed to Cuban society and strengthen the historic ties between the two cultures. They included a feast of Chinese food and products in Chinatown, a simultaneous chess tournament, an exhibition of Ming and Song enamelware, and a photographic exhibition of the district produced by an Italian artist.

124. The programme also included a congress on traditional medicine, an exchange among social science researchers on the Chinese presence in Cuba and other countries overseas, an exhibition of works by Flora Fong, a famous contemporary Cuban painter of Chinese descent, and a first-day cover showing one of the artist's works to commemorate the occasion.

C. Information

125. The Constitution establishes State ownership over the mass communications media. These, in their editorial policy, promote the publication of opinions opposed to racial prejudice.

126. The Cuban population has been kept informed of the most important events in the struggle against racial discrimination, apartheid and Zionism. Since apartheid was overthrown in South Africa, the accent has been on moves by the new South African Government to foster integration.

127. The passage of laws against immigrants' rights, and the racist violence which such legislation has unleashed in some countries, are constantly discussed and criticized in the Cuban press, for instructive purposes.

128. As part of the policy of permanent opposition to racial prejudice which began in 1959, the press throughout the country emphasizes the various ethnic elements that have helped to shape the history of Cuban nationhood, and the importance of unity among them to the harmonic development of the Cuban nation.

129. The existence of a relatively widespread network of printed, broadcast and televised media accessible to the general public, and local production - which in the case of television represents 70 per cent of programming - ensure that the masses receive these messages; they also afford suitable protection and promotion for the Cuban identity and Cuban values from which the principles of humanism, solidarity and non-discrimination spring.

130. The full enjoyment of basic human rights is daily featured in the Cuban press. The Cuban press staunchly defends basic human rights, telling people about advances in education and public health care, new discoveries in science placed at the service of mankind in Cuba, other social progress, and democratic involvement by the general public in the discussion of the nation's problems and the formulation and application of solutions to them.

131. The need to eradicate social inequalities and seek alternative means of preserving the environment, successes and failures in efforts to improve nutrition in underdeveloped countries, the contrast between hunger in some countries and wealth and disproportionate waste in others, criticism of the exploitation of child labour and the use of children in prostitution, and a campaign against high drug consumption in northern countries are among the subjects intimately linked to true enjoyment of human rights which are covered daily in the Cuban press.